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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/705,576

11/10/2003

Deborah J. Rizzo

DR-03-01

4263

7590

11/30/2006

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EXAMINER

PUROL, DAVID M

ART UNIT

PAPER NUMBER

3634

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/705,576	Applicant(s) RIZZO, DEBORAH J.	
	Examiner David M. Purol	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>11022003</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. The drawings filed on December 5, 2005 have been accepted.
2. On page 13, line 15 refers to the reference numeral 122 as being shown in figure 23 denoting the cavity engaging portion. However, the drawings do not illustrate the reference numeral 122. Appropriate correction is required.
3. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims recite "or other types of window treatment" and "or other window treatment component" each of which are indefinite recitations for it is not known as what constituents are encompassed by "other types" and/or "other" and as such the metes and bounds of the claims cannot be established.

Claim 11 is indefinite for it is not clear if the mounting fixture is a positively claimed element. While claim 11, lines 2-3 state that the mounting fixture is for the attachment of the cavity engaging portion of the window treatment component, the main body of the claim recites structure of the mounting fixture thereby implying the mounting fixture is a positively claimed element. Elements of an invention to which it is necessary to refer in order to define other elements of the invention are to be positively included in the claims.

Claims 12-20 are further indefinite for they recite a preamble which is inconsistent with the preamble of the claim from which they depend. In addition, the preamble of claims 18-20 reciting a suspension system has an improper antecedent basis.

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Claims 12 and 13 are further indefinite for at line 2 they each recite "a bracket" which is a double recitation of claim 11 at line 1 which has previously set forth the bracket.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4,7,8,10-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Summerville '243. Summerville '243 discloses a mounting fixture comprising a window frame or wall engaging portion 11, a slotted cavity 26,27,28, an end closure or blocking member 33, and at least one bracket, rod, cornice, or other window treatment component 12,13,35,39,47,55,58.

It is noted that claims referring to the window treatment component in the context of an alternative expression sets forth that the claims may or may not be directed to the window treatment component but to an alternate element of the recited alternative expression. Accordingly, in negating patentability the prior art disclosing one of those alternate elements of the recited alternative expression need not disclose that portion of the claims which define structure of the window treatment component. Similarly for the claims referring to either the end closure or blocking member in the context of an alternative expression. Regarding claim 11, the preamble of this claim is in the context of an alternative expression per se and as such in negating patentability the prior art only needs to disclose one of the elements recited therein, i.e., a bracket, a rod, cornice

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or window treatment component with only the window treatment component being restricted to the functional association with the mounting fixture.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5,9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Summerville '243 in view of Tyler. While Summerville '243 do not disclose the use of mounting holes, Tyler discloses a mounting fixture 1 which employs the use of mounting holes 2, wherein, to incorporate this teaching into the mounting fixture of Summerville '243 for its explicit purpose of accommodating fasteners would have been obvious to one of ordinary skill in the art.


6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Summerville '243 in view of Damm. As to the specific shape of the cavity, inasmuch as there is nothing to indicate that the shape of the cavity is significant or is anything more than one of numerous configurations one having ordinary skill in the art would have found obvious for the purpose of accommodating the at least one bracket, rod, cornice or other window treatment component no patentable weight has been attributed thereto. Even so, however, Damm discloses a mounting fixture which has a cylindrical elongate cavity 11, wherein, to incorporate this teaching into the mounting fixture of Summerville '243 for the purpose of supporting various shaped brackets, rods, cornices, or other

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window treatment components would have been obvious to one of ordinary skill in the art.

7. The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Summerville '511, Pisciotta, Goodrow, Kenney, Lamoureux et al, Arnold, Hughes, Garnett, Blaisdell, Bond, Schenmeyer.

8. Any inquiry concerning this communication should be directed to David M. Purol at telephone number (571) 272-6833.


David M Purol
Primary Examiner
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